

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

TABERNA CAPITAL MANAGEMENT, LLC,	:	District Court Case No.:
	:	08 CV 1817 [JSR]
Plaintiff,	:	
	:	
- against -	:	
	:	
SIDNEY B. DUNMORE, MICHAEL A. KANE,	:	ORAL ARGUMENT REQUESTED
and DHI DEVELOPMENT f/k/a DUNMORE	:	
HOMES, LLC,	:	
	:	
Defendants.	:	
	:	
	:	
	:	

NOTICE OF MOTION AND MOTION OF SIDNEY B. DUNMORE TO: (1) DISMISS THE COMPLAINT DUE TO THE AUTOMATIC STAY OR DUE TO PLAINTIFF'S LACK OF STANDING; (2) DISMISS THE COMPLAINT PURSUANT TO F.R.C.P. 12(b)(6); OR IN THE ALTERNATIVE, (3) FOR A MORE DEFINITE STATEMENT OF FACTS PURSUANT TO F.R.C.P. 12(e)

PLEASE TAKE NOTICE THAT on June 12, 2008, at 4:00 p.m. E.S.T., or as soon thereafter as the matter may be heard in the Courtroom of the Honorable Jed. S. Rakoff, United States District Court Judge, Southern District of New York, located at 500 Pearl Street, New York, NY 10007, Room 14-B, Defendant Sidney B. Dunmore (“Dunmore”) will and hereby does move this Court to: (1) dismiss the complaint due to the automatic stay or due to Plaintiff’s lack of standing; (2) dismiss the complaint pursuant to FRCP 12(b)(6); or in the alternative (3) for a more definite statement of facts pursuant to FRCP 12(e) (the “Motion”).

This Motion is based on this Notice of Motion and Motion, Memorandum of Law, Request For Judicial Notice and upon the papers, records, and pleadings on file herein.

PLEASE TAKE FURTHER NOTICE, that, pursuant to the Scheduling Order issued by the Court on or about April 17, 2008, if you wish to object to the Motion, the objection shall be in writing and shall conform with the Federal Rules of Civil Procedure, Local Rules of the United States District Courts for the Southern and Eastern District of New York and Individual Rules of Practice of the Honorable Jed S. Rakoff, United States District Court Judge. Any objection to the Motion shall be filed with this Court and served on all parties by May 22, 2008. Further, any reply to any opposition to the Motion shall be filed with this Court and served on all parties by May 30, 2008.

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Dunmore requests oral argument on the Motion.

Dated: May 1, 2008

LEVENE, NEALE, BENDER, RANKIN &
BRILL L.L.P.

By: /s/ Beth Ann R. Young
Beth Ann R. Young (CA State Bar No. 143945)
(Pro Hac Vice)
Michelle Sharoni Grimberg (CA State Bar No.
217327) (Pro Hac Vice)

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